

Federal Communications Commission.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 393

[FHWA Docket No. MC-96-41]

RIN 2125-AE05

Parts and Accessories Necessary for Safe Operation; Development of a North American Standard for Protection Against Shifting or Falling Cargo

AGENCY: Federal Highway
Administration (FHWA), DOT.

ACTION: Advance notice of proposed
rulemaking; request for comments.

SUMMARY: The FHWA is considering proposing amendments to its regulations concerning cargo securement requirements for commercial motor vehicles engaged in interstate commerce. The FHWA intends to consider adopting new cargo securement guidelines that will be based upon the results of a multi-year comprehensive research program to evaluate current regulations and industry practices. The FHWA is also requesting comments on the process to be used in developing these preliminary cargo securement guidelines. The FHWA is currently working on this research program with the Canadian Council of Motor Transport Administrators (CCMTA), State and Provincial agencies responsible for motor carrier safety activities, the Commercial Vehicle Safety Alliance (CVSA), and U.S. and Canadian industry groups. This research program is scheduled for completion by the end of 1996 with the final report to be published shortly thereafter.

DATES: Comments must be received on or before December 16, 1996.

ADDRESSES: Submit written, signed comments to FHWA Docket No. MC-96-41, Room 4232, HCC-10, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of

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comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Larry W. Minor, Office of Motor Carrier Research and Standards, HCS-10, (202) 366-4009; or Mr. Charles E. Medalen, Office of the Chief Counsel, HCC-20, (202) 366-1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

On July 27, 1993, the House of Representatives held a hearing concerning the adequacy of Federal regulations on cargo securement as well as the enforcement of those regulations (Truck Cargo Securement Regulations and Enforcement, 1993: Hearing Before the Subcommittee on Investigations and Oversight of the House of Representatives' Committee on Public Works and Transportation, 103rd Cong., 1st Sess. 32 (1993)). A copy of the July 1993 proceeding is included in the docket file. The hearing was prompted by several cargo securement accidents that occurred in New York between 1990 and 1993. During the hearing, the Federal Highway Administrator (the Administrator) indicated that the Ontario Ministry of Transportation had requested that the FHWA review a proposal prepared on behalf of the CCMTA—a non-profit association of senior officials from Federal, Provincial, and Territorial departments and agencies responsible for the administration, regulation and control of motor vehicle transportation and highway safety—for a research program to evaluate cargo securement regulations and industry practices. The Administrator informed the subcommittee that the FHWA would participate in the research effort and consider incorporating the results of the research into the Federal Motor Carrier Safety Regulations (FMCSRs).

A cargo securement research working group was organized by the CCMTA and the Ontario Ministry of Transportation to discuss the research methodology with industry groups and Federal, State, and Provincial governments in the United States and Canada. The working group, which included representatives from the FHWA, Transport Canada (the Federal department responsible for developing and enforcing the regulatory aspects of motor vehicle and motor carrier safety), the CCMTA, the CVSA, several States and Provinces, and U.S. and Canadian industry, held its first

meeting August 16-17, 1993, at the Downsview, Ontario offices of the Ontario Ministry of Transportation. A copy of the minutes from the meeting, including a list of attendees, is in the docket file. A report identifying the cargo securement issues to be examined through the research program and describing the research methodology to be used was published by the Ontario Ministry of Transportation in November of 1993. A copy of the report entitled "A Proposal for Research to Provide a Technical Basis for a Revised National Standard on Load Security for Heavy Trucks" is included in the docket file.

Research Reports

The research program involves the testing of trailer anchor points (i.e., stake pockets, D-rings, tensioning ratchets, etc.), the effect of binder type, chain size, and chain length on the tension of the tiedown assembly, equalization of tension in the spans of chain and webbing tiedowns, lateral and longitudinal movement of the cargo on tiedown tension, and blocking and bracing, friction between the load and the vehicle, or between individual articles being transported (e.g., concrete pipe, lumber products, etc.). The research program is also examining securement practices for transporting steel coils and intermodal cargo containers.

With the exception of the testing of the securement systems for steel coils, all of the laboratory work is scheduled for completion by September 1996. The tests involving steel coils are scheduled for completion by the end of 1996. Individual research reports will be issued covering each of the testing modules. The FHWA will publish notices in the *Federal Register* to announce the availability of the research reports. A comprehensive report covering each of the testing modules, and presenting conclusions and recommendations on cargo securement practices is expected to be published in June of 1997.

Standard Development Process

The preliminary efforts at developing the North American Cargo Securement Standard are currently being managed by a drafting group. The drafting group is developing the outline for the guidelines with most of the detailed performance criteria to be added as the research reports are completed. Membership in the drafting group includes representatives from the FHWA, Transport Canada, CCMTA, the Ontario Ministry of Transportation, Quebec Ministry of Transportation—Ontario and Quebec are conducting

most of the research—and the CVSA. The CVSA is included in the drafting group because it is an organization of Federal, State, and Provincial government agencies and representatives from private industry in the United States, Canada, and Mexico dedicated to improvement of commercial vehicle safety. The membership of the drafting group is limited because it is impractical to draft a technical document with a larger number of participants.

As envisioned thus far, the process to be used for further developing this outline for the guidelines would involve a harmonization group which would review major portions of this outline as it is completed by the drafting group. Membership in the harmonization group would be open to all interested parties in the U.S., Canada, and Mexico. This process would be intended to ensure that all interested parties had an opportunity to participate in the development of the guidelines, and to identify and consider the concerns of the Federal, State, and Provincial governments, carriers, shippers, industry groups, and associations as well as safety advocacy groups and the general public. The harmonization group would hold public meetings at locations in the United States and Canada, during which drafts of the North American Cargo Securement Standard would be presented for review and comment. Representatives of the CCMTA and the CVSA would serve as co-chairpersons for the harmonization group and would organize the public meetings. The FHWA would announce the dates of these meetings in the *Federal Register* and maintain copies of the proceedings in this docket file. For individuals and groups unable to attend the meetings, the FHWA would, to the extent practicable, publish each version of the draft standard in the *Federal Register*. Further, the FHWA and/or CCMTA would post information on the INTERNET. Individuals and organizations with INTERNET electronic mail addresses would also be provided with the opportunity to have their names added to an electronic mailing list to receive information on the development of the standard.

After all interested parties had had the opportunity to comment, and their concerns had been considered, the final version of the North American Cargo Securement Standard would be published, and Federal, State, and Provincial governments throughout North America would be encouraged to adopt it. The FHWA intends, at that point, to propose in an NPRM that the existing cargo securement regulations

found at 49 CFR 393.100 through 393.106 be amended to adopt the standard.

Request for Comments

The FHWA is not offering for comment at this time any proposed language for the North American Cargo Securement Standard or amendments to the FMCSRs. The Agency is, however, soliciting comments on its decision to consider a rulemaking to overhaul its cargo securement regulations based upon the research program described and other published cargo-securement related research, such as Southern Illinois University's March 1995 report entitled "Analysis of Rules and Regulations for Steel Coil Truck Transport." (A copy of this report is included in the docket file.) The FHWA anticipates that a notice of proposed rulemaking will be issued by the end of 1997 and, depending on the comments received, a final rule issued in 1998. The FHWA is also requesting comments on the process that would be used to develop the North American Cargo Securement Standard. Following a review of the docket comments sent in response to this notice, the FHWA will publish a notice that summarizes the comments and identifies any issues that warrant reconsideration of the standard development process.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket room at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the FHWA will also continue to file in the docket relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866. The FHWA has preliminarily determined that this rulemaking is a significant rulemaking action under the Department of Transportation's regulatory policies and procedures. The regulatory action being considered is not expected to have an annual effect on the economy of \$100 million or more nor is it likely to adversely affect the economy in a

material way. Due to the preliminary nature of this document and a lack of necessary information on costs, however, the FHWA is unable to evaluate fully the economic impact of the potential regulatory changes being considered in this rulemaking. Based upon the information received in response to this advance notice of proposed rulemaking, the FHWA intends to carefully consider the potential costs and benefits associated with establishing new cargo securement requirements. Comments, information, and data are solicited on the economic impact of establishing new requirements.

Regulatory Flexibility Act

Due to the preliminary nature of this document and lack of necessary information on costs, the FHWA is unable to evaluate fully the effects of the potential regulatory changes on small entities. Based upon the information received in response to this advance notice of proposed rulemaking, the FHWA intends, in compliance with the Regulatory Flexibility Act (5 U.S.C. 601-612), to carefully consider the economic impacts of these potential changes on small entities. The FHWA solicits comments, information, and data on these impacts.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. This document merely solicits comments on the FHWA's consideration of proposing to replace the existing cargo securement regulations with the North American Standard currently under development. No additional costs or burdens will be imposed on the States as a result of this notice and the States' ability to discharge traditional State government functions will not be affected.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement

for the purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3520.

National Environmental Policy Act

The agency has analyzed this rulemaking for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347) and has determined that publication of this notice will not result in any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 393

Highway safety, Motor carriers, Motor vehicle safety.

Authority: 49 U.S.C. 31136, 31502; 49 CFR 1.48.

Issued on: October 8, 1996.

Rodney E. Slater,

Federal Highway Administrator.

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